

REMARKS

Reconsideration is requested.

Claims 25-43 and 45-48 are pending.

The claims have been amended without prejudice, to advance prosecution.

Basis for the amendments may be found in the specification, for example, on page 4, lines 27-28, page 10, lines 30-33, page 13, line 34 and page 14, line 17. No new matter has been added. Entry of the above amendments is requested as the applicants believe the amendments at least place the application in better condition for appeal by obviating at least some of the art rejections, as further indicated below. Entry of the above amendments will therefore, at a minimum, reduce the issues for appeal.

The Section 112, first paragraph "written description", rejection of claims 25-43 and 45-48, is traversed. The Examiner is requested to see, for example, page 3, line 36 to page 4, line 2; page 12, line 23 to page 13, line 1; page 14, line 34 to page 15, line 17; page 15, line 31 to page 16, line 5; page 16, lines 31-35 and page 17, line 1-4 wherein the objected-to phrase is believed to find support. Withdrawal of the Section 112, first paragraph "written description", rejection of the claims is requested.

The Section 102 rejection of Claims 26, 28, 30, 32, 34, 36, 38 and 46 over Mennesson (Fr. 2,607,786) is traversed. Reconsideration and withdrawal of the rejection are requested as the cited document fails to teach or suggest a slot for retaining liquid by capillarity. Entry of the above amendments will at least reduce the issues for appeal by obviating the Section 102 rejection of the noted claims over Mennesson. Entry of the above amendments and withdrawal of the Section 102 rejection are requested.

The Section 102 rejection of Claims 25-29, 31, 43, 45 and 46 over Baugh (3,592,349) is traversed. Reconsideration and withdrawal of the rejection are requested as the cited document fails to teach or suggest a cap wherein the upperwall closes the upper end of the sidewall insofar as the cap of the cited document is provided with an opening. That is, the applicants believe that the gripping portion (26) of the cited document, which is referred to by the Examiner at page 3 of the Office Action dated November 4, 2004, is not believed to provide a closing (i.e., not allowing the passage of fluids) as required by the presently claimed invention.

Moreover, the cited document fails to teach or suggest a slot for retaining liquid by capillarity. Entry of the above amendments will at least reduce the issues for appeal by obviating the Section 102 rejection of the noted claims over Baugh. Entry of the above amendments and withdrawal of the Section 102 rejection are requested.

The Section 102 rejection of claims 25-43, 45-48 over Dyke (4,304,869) is traversed. Reconsideration and withdrawal of the rejection are requested as the cited document is not believed to teach or suggest a liquid retaining element insofar as liquid may access directly to the upper end of the nozzle in the intermediate position of the cap shown in Figure 4. Consequently, the applicants believe that the liquid may easily escape to the outside, such that liquid is not retained as required by the present claims.

Entry of the above amendments will at least reduce the issues for appeal by obviating the Section 102 rejection of the noted claims over Dyke. Entry of the above amendments and withdrawal of the Section 102 rejection are requested.

The Section 102 rejections of claims 26, 28 and 46 over Victor et al. (4,057,160) or Watson et al. (3,944,1041) are traversed. Reconsideration and withdrawal of the

rejections are requested in view of the following distinguishing comments.

Victor is not believed to disclose either a capillarity effect or a communication for gas between inside and outside of the bottle allowing a degassing, as presently claimed.

Watson is not believed to disclose a cap including at least one slot capable of retaining liquid by capillarity.

Entry of the above amendments will at least reduce the issues for appeal by obviating the Section 102 rejection of the noted claims over Watson. Entry of the above amendments and withdrawal of the Section 102 rejection are requested.

The claims are submitted to be patentable over Mennesson (Fr. 2,607,786), Baugh (3,592,349), Dyke (4,304,869), Victor et al. (4,057,160) and Watson et al. (3,944,1041) for the reasons noted above and withdrawal of the Section 102 rejections of the noted claims over the same is requested.

The Section 103 rejections of claims 40 and 42 over Mennesson and of Claims 33, 35, 37, 39 and 41 over Baugh in view of Mennesson are traversed. Reconsideration and withdrawal of the rejections are requested in view of the above and the following distinguishing comments.

Claim 34, from which claims 40 and 42 depend, is novel over Mennesson for the reasons noted above. The Examiner has acknowledged that the invention of claim 34 would not have been obvious over Mennesson. It is unclear therefore to the applicants how it would have been obvious from the cited document to have made the invention of claims 40 and 42, which includes additional elements, where the broader invention of claim 34 (and claims 30 and 26 from which claim 34 depends) is patentable over the

same cited art. Clarification in this regard is requested in the event the event the Section 103 rejection of claims 40 and 42 is maintained. The invention of claims 40 and 42 would not have been obvious in view of Mennesson and withdrawal of the Section 103 rejection of claims 40 and 42 over the same is requested.

Finally, and in a similar manner, the allegedly obvious claims 33, 35, 37, 39 and 41 depend indirectly from claims 29 and 25, which the Examiner acknowledges as not having been obvious in view of the combination of Baugh and Mennesson. Clarification is requested as to how the indicated dependent claims could have been obvious in view of the cited combination of art where the broader claims are acknowledged as having been patentable over the combination of cited art. Moreover, each of the individual cited references suffer similar deficiencies, as noted above and their combination would not have made the presently claimed invention obvious.

Withdrawal of the Section 103 rejections is requested.

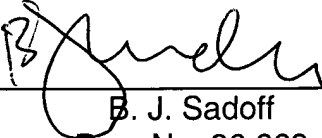
Entry of the above amendments and allowance of the claims are requested. The Examiner is requested to contact the undersigned in the event anything further is required.

DE LAFORCADE
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Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____


B. J. Sadoff
Reg. No. 36,663

BJS:
1100 North Glebe Road, 8th Floor
Arlington, VA 22201-4714
Telephone: (703) 816-4000
Facsimile: (703) 816-4100